

FILED
Clerk
District Court

MAY - 9 2006

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For The Northern Mariana Islands
By _____
(Deputy Clerk)

Plaintiff, Pro Se

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

ROBERT D. BRADSHAW

) Case No. CV 05-0027

Plaintiff

v.

COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS (hereafter referred to
as the CNMI); et. al.

Defendants

) **PLAINTIFF'S MEMORANDUM**
) **OPPOSING DEFENDANT CLAYTON'S**
) **MOTION TO QUASH SERVICE OF**
) **SUMMONS FOR DEFECTIVE**
) **SERVICE**

)
) Hearing at 0900 AM, 25 May 2006

) Judge Alex R. Munson

1. Comes now plaintiff to oppose defendant Clayton's motion to Quash service of summons for defective service. This motion should be denied for at least seven reasons.

2. First, the court's action on Feb 21, 2006 in dismissing the first Amended complaint in case 05-0027 with leave to amend was received by plaintiff on March 1, 2006. By then, plaintiff had already complied with the court's order of Jan 31, 2006 relative to defendant Clayton by sending the summons document and money to the Saipan Tribune for

publication.

3. Second, the publication in the Saipan Tribune was a presentation of the summons only and not the complaint. The reference to the complaint was only that it was on file at the Court and could be obtained by the defendant from the clerk.

4. Third, from the order for service by publication on Jan 31, 2006 to such time that the defendant answered the summons, the Clerk acted for defendant Clayton in the custody, handling and possession of the complaint.

5. Fourth, the plaintiff has no knowledge of any effort by defendant Clayton to contact the court for a copy of the complaint. Since the Clerk apparently did not supply a copy of the complaint to Mr Clayton, Mr Clayton's argument on the status of the complaint is not valid.

6. Fifth, the dismissal of Feb 21, 2006 was only for defendant Jay H. Sorensen. The dismissal of that date did not address defendant Clayton or even the other defendants for that matter. In the case of Mr Clayton, he had not been served with the summons by that date and he had not made any appearance before the court.

7. Sixth, article 1 of the "Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters" specifically does "not apply where the address of the person to be served with the document is not known." To this day, plaintiff does not have a address for Mr Clayton.

8. Last, Plaintiff filed with the court a motion to enter a default judgment on Mr Clayton on Apr 24, 2006. Thus, this action in terms of Mr Clayton was then in default before the court by Apr 26, 2006.

9. For the above seven reasons, defendant's motion to quash should be denied.

10. If the court denies the motion to quash, plaintiff further moves that his motion to the clerk to enter a default judgment against defendant Clayton be withdrawn/stricken from the record. Defendant Clayton made his appearance very quickly following plaintiff's entrance of the default motion.

11. The interests of justice will be served if the court finds that proper service was made on defendant Clayton and if the now pending default motion is withdrawn/stricken from case 05-0027. A proposed order is attached.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief. Dated this 7th day of May 2006 at Calder, Idaho.

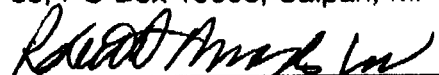


Robert D. Bradshaw, Plaintiff, Pro Se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of May 2006, I caused to be served a true copy of the foregoing document by US Mail Postage Paid to each of the following:

Jay H. Sorensen, c/o Shanghai, PO Box 9022, Warren, MI 48090-9022
Kristin St Peter, Asst Attorney General, Caller Box 10007, Capitol Hill, Saipan, MP 96950
Patrick Civile, Civile & Tang, PLLC, PMB 86, PO Box 10003, Saipan, MP 96950



Robert D. Bradshaw, Plaintiff, Pro Se

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

ROBERT D. BRADSHAW

) Civil Action No. 05-0027

Plaintiff

v.

COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS (hereafter referred to
as the CNMI);
Defendants

) **(PROPOSED) ORDER**
)
)
)

Defendant Andrew Clayton's Motion to Quash Service of Summons is denied.
Plaintiff's Motion to the Clerk for a default judgment against defendant Clayton is stricken.

IT IS SO ORDERED.

DATED this _____ day of _____ 2006.

ALEX R. MUNSON
Judge